IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:-

THE HONOURABLE THE CHIEF JUSTICE MR.V.K.BALI
&
THE HONOURABLE MR. JUSTICE S.SIRI JAGAN

MONDAY, THE 4TH DECEMBER 2006 / 13TH AGRAHAYANA 1928

W.A.No.2192 of 2004(E)

AGAINST THE JUDGEMENT IN W.P.(C).40648/2003-L DATED 17/09/2004

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APPELLANT: 1ST RESPONDENT:-

THE KERALA STATE DEVELOPMENT CORPORATION
FOR SCHEDULED CASTES AND SCHEDULED TRIBES LTD.
REPRESENTED BY ITS REGIONAL MANAGER,
ST.ANTONY'S COMPLEX, NAGAMPADAM, KOTTAYAM.

BY ADV. SRI.M.K.CHANDRA MOHANDAS

RESPONDENTS: PETITIONER & RESPONDENTS 2 & 3:-

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1. T.P.SNEHALATHA, W/O. LATE MOHANAN,
   THEKKEDATH HOUSE, VAIKOM, KOTTAYAM.

2. THE PROJECT OFFICER,
   PROJECT OFFICER (COIR), VAIKOM.

3. N.K.CHANDRA BABU, S/O. KELAN,
   KAVIMATTATHIL HOUSE, KALARA, VAIKOM, KOTTAYAM.

R1 BY ADV. SRI.T.A.SHAJI

THIS WRIT APPEAL HAVING BEEN FINALLY HEARD ON 04/12/2006, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:-

V.K.Bali,C.J. & S.Siri Jagan,J.

W.A.No.2192 of 2004-E

Dated, this the 4th day of December, 2006

JUDGMENT

V.K.Bali,C.J. (Oral)

The appellant herein is the Kerala State Development Corporation for Scheduled Castes and Scheduled Tribes Ltd. The petitioner in the original lis is a guarantor for the loan taken by the 3rd respondent from the appellant. When she was proceeded against, she filed the writ in which learned Single Judge ordered that the appellant may proceed against both, i.e. the principal debtor and the guarantor, to recover the loan amount particularly when a civil suit had already been filed. The order passed by the learned Single Judge is equitable and no interference is called for. Dismissed.

2. At this stage, learned counsel representing the appellant says that in case the principal debtor may not pay anything, the appellant can well proceed against the guarantor as well. There is no such embargo placed upon the appellant by the

impugned order. We may, however, clarify that if the appellant may not be able to effect recovery from the principal debtor, it would be open to the appellant to proceed against the guarantor as well.

V.K.Bali
Chief Justice

S.Siri Jagan
Judge

vku/-